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August 18, 2008

**BY HAND**

Donald F. McGahn II  
Chairman  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

**Re: MUR 6030**  
**Dan Seals for Congress and Harry Pascal, as treasurer**

**Dear Chairman McGahn**

On behalf of our clients, Dan Seals for Congress and Harry Pascal, as treasurer (collectively, "the Committee"), we write to respond to the complaint filed by Mr. Louis G. Atsaves, dated June 16, 2008, and designated MUR 6030.

The complaint should be promptly dismissed. It revolves around an insubstantial amount of support lent to a neighboring candidate in a special election in which that candidate was running. Because that support was fully legal, because it resulted in no contribution, and because the underlying error – if any – was overdisclosure, the Commission should take no further action.

The Committee is the principal campaign committee of Dan Seals, a House candidate in Illinois' 10th District. Seals won his party's nomination in February 2008, and is a candidate in the general election. A neighboring candidate in the 14th District, Bill Foster, ran and won for Congress in a March 8 special election to replace former Speaker Dennis Hastert. Foster's principal campaign committee, Bill Foster for Congress, was required to file a Post-General Report on April 7, 2008. The Committee's own March Quarterly Report was due on April 15.

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Because of the importance of the Foster race to Seals and other Illinois Democratic House candidates, and to help a neighboring candidate, the Committee encouraged volunteers to canvass and make phone calls on Foster's behalf. The efforts included the two emails referenced in the complaint.

Wanting to comply fully with the law, the Committee reviewed Commission publications to determine whether or how the support must be reported as an in-kind contribution. Finding no guidance that seemed to be specifically on point, it contacted the Reports Analysis Division, which recommended sending a letter to the Foster campaign advising it of the support. The Committee then estimated the portion of its regular overhead and staff salaries associated with the Foster support at \$1,050. The Committee informed Bill Foster for Congress of the amount. The Foster committee then reported it as an in-kind contribution on its Post-General Report. The Committee appropriately disclosed the underlying disbursements as operating expenses on its own March Quarterly Report.

On later review, the Committee came to question whether it was necessary to report the support to be reported as an in-kind contribution at all. Section 106.1(c) of the Commission regulations addresses the allocation of expenses between candidates; it provides that overhead, payroll and rent do not have to be allocated to a candidate unless those expenses are directly attributable to that candidate.

Because the Committee incurred no expenses directly attributable to Bill Foster, but rather used existing staff, existing office overhead and volunteer support, the regulations should not require any costs to be allocated to the Foster campaign. The complaint itself tends to confirm the absence of directly attributable costs. The cited emails describe phone banks run "out of our campaign office," which would be exempt from allocation under 11 C.F.R. § 106.1(c), and refers repeatedly to volunteer help, which would have been exempt under 11 C.F.R. §§ 100.74 and 100.79.

Even if a contribution had occurred, though, no further action would be warranted. The Committee acted reasonably, seeking informal Commission staff advice on what seemed to be an opaque question of law. The Committee had no reason or desire to conceal its support of Foster; it had publicized that support through public emails and provided the Foster campaign with an estimate of the value involved. There is no suggestion or allegation that the value of the support even approached the \$2,000 limit imposed by 2 U.S.C. § 432(e)(3)(B). Finally, at bottom, this matter involves the sort of grassroots activity that the Commission encourages in other contexts.

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**For the foregoing reasons, we respectfully request that the complaint in MUR 6030 be dismissed**

**Very truly yours,**



**Karl J Sandstrom**  
**Brian G Svoboda**  
**Counsel to Respondents**

**cc**    **Vice Chair Walther**  
         **Commissioner Bauerly**  
         **Commissioner Hunter**  
         **Commissioner Petersen**  
         **Commissioner Weintraub**  
         **Thomasena Duncan, Esq , General Counsel**

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